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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,847	01/16/2004	Ryan P. Fong	200316195-1	6942

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HEWLETT PACKARD COMPANY
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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER

BAE, JI H

ART UNIT	PAPER NUMBER
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2115

NOTIFICATION DATE	DELIVERY MODE
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02/25/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/758,847	Applicant(s) FONG ET AL.	
	Examiner JI H. BAE	Art Unit 2115	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1-16-2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-22 and 30-37 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding claims 1-22, the claimed invention is directed towards an apparatus comprised of a graphical user interface (GUI). The dependent claims do not further recite that the claimed apparatus is in any way comprised of anything other than a GUI. For example, claim 6 recites one or more storage components, but these are recited as working in conjunction with the apparatus, and not as part of the apparatus itself. Since the claims are solely directed towards a GUI, and since a GUI cannot properly be classified as a process, machine, article of manufacture, or composition of matter, claims 1-22 are directed towards non-statutory subject matter.

Regarding claims 30-33, the claimed invention is directed towards an article comprised solely of a computer-readable signal-bearing media. Applicant's specification is unclear in its description as to what constitutes a computer-readable signal-bearing media. At one point, the specification defines such media as being comprised of data storage media [pp. 9, paragraph 28], which would constitute statutory subject matter in the form of an article of manufacture that stores data. However, the same paragraph goes on to describe such media as modulated carrier signals transmitted over a network [pp. 10, paragraph 28]. Since the specification includes carrier signals in the description of computer-readable signal-bearing media, and since carrier signals cannot properly be

classified as a process, machine, article of manufacture, or composition of matter, claims 30-33 are directed towards non-statutory subject matter.

Regarding claim 34-37, the claimed invention is directed towards an apparatus with means for invoking a GUI. Applicant's specification describes that the graphical user interface is invoked by a user entering a command through a command line interface. Claim 34 differentiates the command line interface from the means for invoking, since it recites a "means for invoking a graphical user interface through a command line interface". Based on the specification, the means is interpreted to be the user's action and/or command entered at the command line interface. The means as described cannot be properly classified as a process, machine, article of manufacture, or composition of matter. Therefore, claims 34-37 are directed towards non-statutory subject matter.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bramely, Jr., U.S. Patent No. 6,889,340 B1, in view of Nice (DOS Start v.1.9b, readme.txt, retrieved from <http://www.icdc.com/~dnice/dosstart.zip>).

Regarding claim 1, Bramley teaches an apparatus comprising a pre-boot operating environment [EFI, col. 1, lines 62-67] used for one or more file management

procedures employable [col. 1, line 67 to col. 2, line, EFI provides DOS functionality] with a command line interface [col. 2, line 4, EFI provides a command shell].

Bramely does not teach that the pre-boot operating environment uses a GUI.

Nice teaches a GUI that allows a user to carry out DOS functions such as launching programs and managing files [page 2, first line].

It would have been obvious to one of ordinary skill in the art to combine the teachings of Bramely with Nice by modifying the EFI shell of Bramely to provide a GUI to carry out the DOS functions, as taught by Nice. GUIs are well-known in the art for providing significant advantages over a command line interface. Nice teaches that the GUI implementation of DOS provides a number of powerful and useful features that are not available to a standard DOS command line [page 2]. Since Bramely teaches that the EFI environment provides a command shell for carrying out DOS functions, and since Nice teaches a GUI for carrying out DOS functions that is more powerful and user-friendly than a standard command line, it would have been obvious to one of ordinary skill in the art to modify Bramely according to the teachings of Nice in order to realize the disclosed advantages.

Regarding claim 2, Nice teaches that the GUI allows input from the user to cause selection and execution of file management procedures [pp. 2, File Manager].

Regarding claim 3, it would have been obvious to use a hotkey to carry out the file management functions, as keyboard shortcuts are well-known in the art.

Regarding claim 4, Nice teaches that the user input of claim 2 is a menu item [pp. 2, DOS menu items].

Regarding claim 5, Nice teaches that the GUI communicates with one or more file storage components. Specifically, since the GUI implements DOS functions, communications with a file storage component is inherent.

Regarding claim 6, Bramely teaches that the file contents of the file storage components are readable by EFI. Since EFI implements DOS functions, the ability of EFI to read file contents is inherent.

Regarding claims 7-9, it would have been obvious to one of ordinary skill in the art to use a FAT file system for the combination of Bramely/Nice, since the FAT file system was designed to be used with DOS.

Regarding claim 10, Bramely teaches that the pre-boot environment provides file management procedures [col. 1, line 67 to col. 2, line, EFI provides DOS functionality].

Regarding claim 11, Nice teaches that the GUI sends requests to the pre-boot operating environment and file storage components. Specifically, Nice teaches that DosStart is a GUI for DOS, and thus assumes underlying DOS command line functionality. Bramely teaches that EFI provides this DOS command line functionality.

Regarding claim 12, 13, and 16-19, Nice teaches that the GUI displays a list of currently available procedures, and allows the GUI to navigate through the files [pp. 5-11, screen shots], and also that the GUI is comprised of a shell with graphics and text.

Regarding claim 14, Nice teaches that the GUI employs file management procedures to manipulate and execute files [program overview, DosStart manages files and launches programs [readme, pp. 2].

Regarding claim 15, Bramely teaches running diagnostic programs in the pre-boot environment [Fig. 3, step 25].

Regarding claim 22, Bramely teaches that the pre-boot environment is EFI.

Regarding claims 23-37, Bramely/Nice teaches the apparatus of claims 1-22, and also the apparatus of claims 34-37, the method of claims 23-29 which is carried out by the claimed apparatus, and the article with instructions for carrying out the claimed

method. Nice also teaches that the GUI may be invoked from the command line interface [readme, pp. 1, "Type DOSSTART to start DosStart at the DOS prompt."].

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Madden et al., U.S. Patent No. 6,178,503 B1,

Zimmer et al., U.S. Patent No. 7,320,052 B2,

Huntington, II et al., U.S. Patent No. 6,907,524 B1.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JI H. BAE whose telephone number is (571)272-7181. The examiner can normally be reached on Monday-Friday, 10 am to 6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Lee can be reached on 571-272-3667. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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